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09/576,656	05/22/2000	Pierre Zakarauskas	10514/006001	3288
23600	7590	10/24/2003	EXAMINER	
COUDERT BROTHERS LLP 333 SOUTH HOPE STREET 23RD FLOOR LOS ANGELES, CA 90071			LAO, LUN S	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 10/24/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/576,656

Applicant(s)

ZAKARAUSKAS ET AL.

Examiner

Lun-See Lao

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### *Introduction*

1. This is response to the amendment filed on 07/21/2003. Claims 2-5 and 7 have been amended and claims 8-18 have been added. Claims 1-18 are pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2 and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Because, claim 2 line 4 "said signal" and claim 14 line 3 "said signal".

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2643

5. Claims 1-9, 11-15 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Nevins (US PAT. 5,949,886).

Consider claim 1 Nevins teaches an acoustic signal monitoring system, comprising:

a time series analyzer (see fig.1, 16) configured to determine and inherently provide a continuous feedback (see fig.2a step 62,64) about an on/off (notified to check that a microphone is properly connected to sound card, when the microphone works correctly, it means on and such as low gain, no signal, it means off) state of a microphone to a user (see figs. 5 and 7-11), said analyzer also enabling gain adjustment to prevent signal clipping or amplifier overloading (see col.5 line 7-63); and

a parameter adjustment element (see fig.1, 24) operating to calculate frequency domain parameters, said frequency domain parameters providing information about placement of the microphone with respect to an audio source, where said information enables the user to take appropriate actions to enhance operation of an audio system (see col.4 lines 24-60).

Consider claim 2 Nevins teaches a method for performing a time series analysis of an acoustic signal comprising:

determining information about an on/off state of a microphone comprising the steps of:

comparing said signal to a threshold value to determine the on/off (notified to check that a microphone is properly connected to sound card, it means if it is connected properly, it is on, otherwise, it is off) state of a microphone (see figs. 5 and 7-11),  
; and continuously providing feedback (see fig., 2a steps, 62,64) based on said information (see col.4 lines 24-60).

Art Unit: 2643

Consider claim 3, Nevins teaches a method of adjusting the quality of the acoustic signal comprising:

- performing frequency domain transform of said acoustic signal (see figs, 3-4 and 6);

- computing signal to noise ratio of said acoustic signal; and

- continuously providing a feedback (see fig.2a, steps 62,64) based on said signal to noise ratio (see col.5 lines 7-63).

Consider claims 4-6, Nevins teaches the method further comprising

- performing detection of signal clipping (see col.4 line 60-col.5line17); and the method further comprising of using said computed signal to noise ratio to calculate gain adjustment for the amplifier (see figs.5 and 7-11 col.5 lines 7-63); and the method of said signal to noise ratio provides information about placement of a microphone with respect to an audio source (see col.5 lines 43-54).

Consider claim 7, Nevins teaches an apparatus comprising a computer-readable storage medium having executable instructions that enable the computer to:

- perform frequency domain transform of an acoustic signal (see figs., 3-4 and 6);

- compute signal to noise ratio of said acoustic signal (see figs.5 and 7-11); and

- continuously provide a feedback (see fig.2a, step, 62, 64) based on said signal to noise ratio (see col.5 line 7-col.6 line 46).

Consider claims 8-9, 13 Nevins teaches the acoustic signal monitoring system of further comprising:

Art Unit: 2643

a frequency transform unit (see fig.1, 16) configured to transform incoming acoustic signal into frequency domain for calculation in said parameter adjustment element (see col. 3 lines 10-38); and performing puff (silence) detection using said calculated said signal to noise ratio; and advising the user to adjust placement of the microphone that generates said signal (see col.5 lines 7-63).

Consider claims 11-12, Nevins teaches the apparatus of a computer-readable storage medium further having executable instructions that enable the computer to:

use said computed signal to noise ratio to calculate gain adjustment for the amplifier (see fig.1, 18 and col.5 line 7-col.6 line 45); and the apparatus of the signal to noise ratio provides information about placement of a microphone with respect to an audio source (see col.5 line 7-63).

Consider claim 14 Nevins teaches an apparatus comprising a computer-readable storage medium having executable instructions that enable the computer to:

Inherently determine information about an on/off state of a microphone (see figs 5 and 7-11) by comparing said signal to a threshold value to determine the on/off (notified to check that a microphone is properly connected to sound card, when the microphone works correctly, it means on and such as low gain, no signal, it means off) state of a microphone (see col.5 lines 7-63); and

continuously provide feedback (see fig.2a, steps 62, 64) based on said information (see col.4 lines 23-59).

Art Unit: 2643

Consider claims 15 and 17-18, Nevins teaches the apparatus of a computer readable storage medium further having executable instructions that enable the computer to:

performing detection of signal clipping (see col.4 line 25-col.5 line 35); and the acoustic signal monitoring system of the time series analyzer (see fig.1, 16) configured to inherently determine said on/off (see figs. 5 and 7-11) state by comparing signal from said microphone to a threshold value (see col.5 lines 7-63); and the acoustic signal monitoring system of the frequency domain (see figs. 3-4 and 6) parameters is signal to noise ratio (see col.5 line 7 –col.6 line 46).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Nevins (US PAT. 5,949,886) in view of Bakis (US PAT. 5,822,718).

Consider claim 16, Nevins does not teach clearly the apparatus of the computer-readable storage medium having executable instructions that enable the computer to determine information about an on/off state of a microphone by comparing said signal to

Art Unit: 2643

a threshold value to determine the on/off state of said microphone further comprises executable instructions that enable the computer to:

- calculate the RMS value of said signal; and

- compare said RMS value to a threshold value to determine the on/off state of said microphone.

However, Bakis teaches the apparatus of the computer-readable storage medium having executable instructions that enable the computer to determine information about an on/off state of a microphone by comparing said signal to a threshold value to determine the on/off state of said microphone further comprises executable instructions that enable the computer to:

- calculate the RMS value of said signal; and

- compare said RMS value to a threshold value to determine the on/off (when the microphone works correctly, it means on and such as low gain, no signal, it means off) state of said microphone (see col.4 line 55-col.5 line 25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Nevins into Bakis to provide a microphone diagnostic device which is able to estimated signal levels and signal-to-noise ratios reasonably accurately, without requiring additional test equipment.

Consider claim 10, there is the method claim corresponding to apparatus claim 16. See previous apparatus claim 16 rejection.



***Response to Arguments***

8. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stobba (US PAT 6,141,426) is recited to other related the method for improving the quality of an acoustic signal.

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lao,Lun-See whose telephone number is (703) 305-2259. The examiner can normally be reached on Monday-Friday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 whose telephone number is (703) 306-0377.

Application/Control Number: 09/576,656

Page 9

Art Unit: 2643

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Patent Examiner  
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**PRIMARY EXAMINER**